

Shafer, Michael A.

From: Newberg, Brad R.
Sent: Thursday, September 26, 2019 2:39 PM
To: Richard Liebowitz
Cc: Shafer, Michael A.
Subject: Rule 68 Offer of Judgment in Usherson v. Bandshell Artist Management
Attachments: Usherson-Bandshell Rule 68 Offer of Judgment.pdf

Richard,
Please see the attached Rule 68 Offer of Judgment. Thank you.

Brad R. Newberg

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ARTHUR USHERSON.,

Plaintiff,

v.

BANDSHELL ARTIST MANAGEMENT

Defendant.

Case No. 1:19-cv-6368

RULE 68 OFFER OF JUDGMENT

DEFENDANT’S RULE 68 OFFER OF JUDGMENT

Pursuant to Rule 68 of the Federal Rules of Civil Procedure (“Rule 68”), Defendant Bandshell Artist Management (“Defendant”), by and through its counsel, hereby offers, without admission of liability, to allow judgment to be entered against it and in favor of Plaintiff Arthur Usherson (“Plaintiff”) for the total amount of \$800 on the claims set forth in Plaintiff’s Complaint (the “Complaint”) [Dkt. #1].

The amount set forth above is the total amount that Defendant or any of its owners, employees, or agents shall be obligated to pay on account of any liability, actions, or infringement claimed in the Complaint, and which shall include any liability for penalties, damages, costs of suit, attorney fees or other amounts that may be recoverable by virtue of the relief claimed in Plaintiff’s Complaint in the above-captioned action.

If Plaintiff does not accept this offer within 14 days of the date of service of this offer, it shall be deemed withdrawn.

This offer of judgment is made to fully and finally resolve all claims asserted by Plaintiff in this action or which could be asserted by Plaintiff against anyone arising out of the facts and circumstances asserted by Plaintiff in this action. If this Offer of Judgment is not accepted, and

any judgment Plaintiff subsequently obtains is not more favorable than this offer, Defendant is entitled to payment of all costs and attorneys' fees incurred to defend this suit after the making of this offer.

Evidence of this Offer of Judgment is not admissible for any purpose other than: to effect judgment under the specified terms if the Offer of Judgment is accepted; to effect an award to Defendant of costs and/or fees; to determine reasonableness of position in a party's request for costs and/or fees; or as evidence for Defendant's seeking of a bond to cover the costs and fees which will be incurred in this action. This Offer of Judgment is made solely for the purposes specified in Rule 68, and is not to be construed either as an admission that Defendant is liable in this action or that Plaintiff has suffered any damages as alleged in the Complaint.

Dated: Tysons Corner, Virginia
September 26, 2019

/s/ Brad R. Newberg

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ARTHUR USHERSON.,

Plaintiff,

v.

BANDSHELL ARTIST MANAGEMENT

Defendant.

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CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of the foregoing Rule 68 Offer of Judgment was sent by email (as per the parties' agreement that service can be effectuated by e-mail) and Federal Express Mail to counsel for Plaintiff Arthur Usherson at:

RL@liebowitzLawFirm.com
Liebowitz Law Firm LLC
11 Sunrise Plaza, Suite 305
Valley Stream, NY 11580-6111

Dated: Tysons Corner, Virginia
September 26, 2019

/s/ Brad R. Newberg
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*Attorney for Defendant Bandshell Artist
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